

MIRAMAX
F I L M S

INCIDENT at OGLALA

DIRECTED BY
MICHAEL APTED

EXECUTIVE PRODUCED BY
ROBERT REDFORD

PRODUCED BY
ARTHUR CHOBANIAN

ASSOCIATE PRODUCER
CHIP SELBY

NARRATOR
ROBERT REDFORD

DIRECTOR OF PHOTOGRAPHY
MARYSE ALBERTI

FILM EDITOR
SUSANNE ROSTOCK

MUSICAL CONSULTANTS
JOHN TRUDELL & JACKSON BROWNE

A MIRAMAX FILMS RELEASE
OF A SPANISH FORK MOTION PICTURE COMPANY PRODUCTION

MPAA RATING: PG

RUNNING TIME: 93min.

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INCIDENT AT OGLALA KEY TAKES

"Incident At Oglala," above all else, is a film about the American justice system and how, at its heart, this system deals with minorities and specifically with Native Americans.

As Leonard Peltier enters his 16th year in prison, there still exists significant confusion about the facts in his case and the 1975 shootout on the Pine Ridge Reservation. "Incident At Oglala" examines whether Peltier received a fair trial and asks the viewer to be the judge.

This year, America is recognizing the quincenntennial anniversary of Columbus's arrival in the New World. We should not forget about our country's dual standard of justice nor about the five centuries of struggle for the Native American people to exist with dignity and sovereignty on their own land.

It is my hope that "Incident At Oglala" will give the American public a deeper understanding not only of the Peltier case, but also of the continuing plight of Native Americans and of all minorities in this country.

Robert Redford
Executive Producer

INCIDENT AT OGLALA

KEY NAMES

James Abourezk	Former U.S. Senator, South Dakota
Mike Anderson	American Indian Movement member; 16 years old at time of shootout; testified against Peltier; died in car accident
Warren Allmand	Minister for Indian & Northern Affairs, Canada at time of shootout
Dennis Banks	Co-Founder, American Indian Movement
Robert Bolin	Jury Foreman, Butler-Robideau Trial
Duane Brewer	Former Goon Squad Member
Norman Brown	American Indian Movement member; teenager at time of shootout; witness against Peltier
Darrelle (Dino) Butler	American Indian Movement member; acquitted of murder of FBI agents
Nilak Butler	American Indian Movement member; wife of Dino Butler at time of shootout
Lynn Crooks	Assistant U.S. Attorney, Fargo, North Dakota
Bruce Ellison	Attorney for Leonard Peltier
Gerald Heaney	Judge, U.S. 8th Circuit Court of Appeals
Evan Hultman	Former U.S. Attorney; chief prosecutor in Leonard Peltier case
William Janklow	Former Governor, South Dakota
William Kunstler	Attorney for Darrelle Butler; Appellant Attorney for Leonard Peltier
John Lowe	Attorney for Bob Robideau and Leonard Peltier
Edward McManus	Trial Judge, Butler-Robideau Trial
William Muldrow	Investigator for U.S. Commission on Civil Rights

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Leonard Peltier	American Indian Movement member who was convicted of killing FBI agents Ron Williams and Jack Coler; currently serving two consecutive life sentences at Leavenworth Penitentiary
Myrtle Poor Bear	Unstable Indian woman whose false affidavits were used to extradite Leonard Peltier from Canada
Bob Robideau	American Indian Movement member; acquitted of murder of FBI agents
Robert Sikma	Assistant U.S. Attorney
John Trudell	Former National Spokesman, American Indian Movement
Norman Zigrossi	Assistant Special Agent in charge of FBI investigation

CHRONOLOGY OF LEONARD PELTIER CASE

February 27, 1973	AIM members, supporters, and traditional Indians occupy town of Wounded Knee, South Dakota.
May 9, 1973	Occupation of Wounded Knee ends
June 26, 1975	Firefight at Jumping Bull Compound, Oglala, South Dakota; FBI Special Agents Jack R. Coler and Ronald A. Williams and AIM member Joe Stuntz killed
September 5, 1975	Darrelle "Dino" Butler arrested by FBI at Crow Dog's Paradise on Rosebud Reservation
September 10, 1975	Station wagon carrying weapons and explosives driven by Bob Robideau explodes on Kansas Turnpike outside of Wichita; Robideau and Mike Anderson arrested; AR-15 rifle recovered
September 11, 1975	Mike Anderson interviewed by the FBI for the first time
October 2, 1975	FBI teletype reports that Wichita AR-15 "contains different firing pin than that in rifle used at the Jumping Bull scene."
October 31, 1975	FBI Laboratory report states that none of the casings recovered at the Jumping Bull scene could be matched to Wichita AR-15
November 25, 1975	Dino Butler, James Eagle, Leonard Peltier, and Bob Robideau indicted by federal grand jury
February 6, 1976	Leonard Peltier arrested in Canada
February 10, 1976	FBI Laboratory report describes for the first time a match between Wichita AR-15 rifle and .223 casing found in trunk of Special Agent Coler's car
February 19, 1976	First Myrtle Poor Bear affidavit
February 23, 1976	Second Myrtle Poor Bear affidavit
February 24, 1976	Anna Mae Aquash's body found
March 31, 1976	Third Myrtle Poor Bear affidavit
May 11, 1976	Myrtle Poor Bear affidavits presented to Canadian court by Paul William Halprin of Canadian Justice Department

June 7, 1976	Trial of Dino Butler and Bob Robideau begins in Cedar Rapids, Iowa
June 18, 1976	Canadian Justice W.A. Schultz decrees that there is sufficient evidence to extradite Leonard Peltier
July 16, 1976	Dino Butler and Bob Robideau acquitted
December 16, 1976	Leonard Peltier extradition ordered by Canadian Justice Minister Ron Basford; Peltier moved from Vancouver to Rapid City
February 1, 1977	Mike Anderson interviewed for the second time by the FBI
March 16, 1977	Trial of Leonard Peltier begins in Fargo, North Dakota
March 22, 1977	Mike Anderson testifies at Peltier trial
April 18, 1977	Leonard Peltier convicted
June 2, 1977	Leonard Peltier sentenced to two consecutive life terms in federal prison by Judge Paul Benson
September 14, 1978	U.S. 8th Circuit Court of Appeals affirms Peltier conviction
April 4, 1978	U.S. 8th Circuit Court of Appeals orders an evidentiary hearing concerning the previously withheld October 2, 1975 teletype
October 1-3, 1984	Evidentiary hearing held in Bismark, North Dakota before Judge Paul Benson
May 22, 1985	Judge Paul Benson denies Peltier's request for a new trial
September 11, 1986	U.S. 8th Circuit Court of Appeals affirms Peltier's conviction
December 3, 1990	Peltier's attorneys file petition for Writ of Habeas Corpus
October 2, 1991	Evidentiary hearing held in Fargo, North Dakota before Federal magistrate Karen Klein
December 30, 1991	Judge Paul Benson denies petition for Writ of Habeas Corpus
Present	Peltier attorney John Lowe of Charlottesville, Virginia recently filed an appeal of Judge Benson's decision to U.S. Eighth Circuit Court of Appeals

"Incident At Oglala"
Production Notes

The Pine Ridge Reservation is a desolate expanse of scrub and prairie that extends over 7,200 square miles of South Dakota. Its residents are some of the most impoverished and oppressed people in the United States. These are the last vestiges of the great Lakota Nation, which once spanned 150 million acres of land west of the Missouri River, north of the Platte, east of the Powder River and south of Yellowstone.

In 1975, Pine Ridge was a place where random murders and beatings and unexplained and often fatal "accidents" were the norm. The violence was instigated by the reservation's tribal leader Richard Wilson and his marauding band of vigilantes, the GOON squad. (This telling acronym, paradoxically, stood for Guardians of the Oglala Nation.) Wilson, an unpopular government puppet, encouraged this state of lawlessness and violence to reinforce his powerbase and to destroy the leaders of the American Indian Movement (AIM), who at the request of the traditional Lakota people, had come to the reservation to protect them.

Late on the morning of June 26, 1975, FBI Special Agents Jack Coler and Ron Williams, allegedly following a red pick-up truck, drove onto the Pine Ridge Reservation. A shoot-out occurred in which both agents and a Native American were killed. The death of the agents led to one of the biggest manhunts in FBI history. Of the four men eventually indicted, one was later released for lack of evidence and two others, Darrelle Butler and Bob Robideau, were acquitted in July 1976 when a jury concluded that although they had fired at the agents, they had done so in self-defense.

The fourth man, Leonard Peltier, was indicted on the same charges as his companions, but was not tried until the following year, after a questionable extradition from Canada. Peltier was convicted on two counts of murder in the first degree, even though the testimony which led to that extradition was perjured and the evidence against him was contradictory.

"Incident At Oglala" details the events of that morning, the "reign of terror" that led up to it, and the gross corruption of justice that ensued. Events are recounted with chilling clarity by those eyewitnesses who lived them.

Executive produced and narrated by Robert Redford and directed by Michael Apted, "Incident At Oglala" lays bare our double standard of justice and the Native Americans' centuries-old struggle to live with dignity and sovereignty in their own land.

Producer Arthur Chobanian had been intrigued by the Leonard Peltier case and knew that Robert Redford, a longtime advocate of Native Americans, had been involved in the case.

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United States Senate

SELECT COMMITTEE ON INDIAN AFFAIRS

WASHINGTON, DC 20510-6450

June 7, 1991

The Honorable George H.W. Bush
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

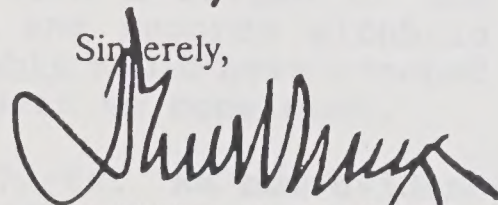
Dear Mr. President:

As we have earlier discussed, I am looking forward to meeting with you regarding the status of a Native American, Leonard Peltier, whose incarceration has become the focus of an international human rights effort.

I am writing to share with you a letter I received from Eighth Circuit Judge Gerald W. Heaney, regarding Mr. Peltier's case. This letter, when viewed in the context of the West 57th broadcast that I left with you and exculpatory evidence that has subsequently come to light, may well warrant your consideration of a number of options that I would like to discuss with you.

I hope that we can arrange a time in the near future to discuss this matter in more depth.

Sincerely,



DANIEL K. INOUE
Chairman

Enclosure

UNITED STATES COURT OF APPEALS

FOR THE EIGHTH CIRCUIT

CHAMBERS OF

GERALD W. HEANEY

UNITED STATES SENIOR CIRCUIT JUDGE

FEDERAL BUILDING

DULUTH, MINNESOTA 55802

April 18, 1991

Senator Daniel K. Inouye
United States Senate
Select Committee on Indian Affairs
Washington, D.C. 20510-6450

Re: Leonard Peltier

Dear Senator Inouye:

Unfortunately I did not receive your letter of February 1, 1991 until April 13, 1991. When I did receive your letter, I was visiting your state. Thus, this is my first chance to reply.

As you know, I wrote the opinion in United States v. Peltier, 800 F.2d 772 (8th Cir. 1986), and I sat as a member of the court in an earlier appeal, United States v. Peltier, 731 F.2d 550 (8th Cir. 1984). In the case I authored, our court concluded:

There is a possibility that the jury would have acquitted Leonard Peltier had the records and data improperly withheld from the defense been available to him in order to better exploit and reinforce the inconsistencies casting strong doubts upon the government's case. Yet, we are bound by the Bagley test requiring that we be convinced, from a review of the entire record, that had the data and records withheld been made available, the jury probably would have reached a different result. We have not been so convinced.

United States v. Peltier, 731 F.2d at 779-80. No new evidence has been called to my attention which would cause me to change the conclusion reached in that case.

There are, however, other aspects of the case that the President may see fit to consider in determining whether he should take action to commute or otherwise mitigate the sentence of Leonard Peltier. My thoughts on these other aspects result from a very careful study of the records of the Peltier trial and the post-trial evidence and from a study of the record in the Robideaux-Butler trial before Judge McManus in Iowa, a trial which resulted in the acquittal of Robideaux and Butler.

April 18, 1991
Senator Daniel K. Inouye
Page 2

First, the United States government over-reacted at Wounded Knee. Instead of carefully considering the legitimate grievances of the Native Americans, the response was essentially a military one which culminated in a deadly firefight on June 26, 1975 between the Native Americans and the FBI agents and the United States marshals.

Second, the United States government must share the responsibility with the Native Americans for the June 26 firefight. It was an intense one in which both government agents and Native Americans were killed. While the government's role in escalating the conflict into a firefight cannot serve as a legal justification for the killing of the FBI agents at short range, it can properly be considered as a mitigating circumstance.

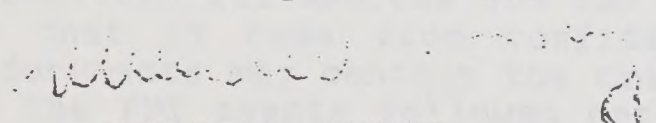
Third, the record persuades me that more than one person was involved in the shooting of the FBI agents. Again, this fact is not a legal justification for Peltier's actions, but it is a mitigating circumstance.

Fourth, the FBI used improper tactics in securing Peltier's extradition from Canada and in otherwise investigating and trying the Peltier case. Although our court decided that these actions were not grounds for reversal, they are, in my view, factors that merit consideration in any petition for leniency filed.

Fifth, Leonard Peltier was tried, found guilty, and sentenced. He has now served more than fourteen years in the federal penitentiary. At some point, a healing process must begin. We as a nation must treat Native Americans more fairly. To do so, we must recognize their unique culture and their great contributions to our nation. Favorable action by the President in the Leonard Peltier case would be an important step in this regard. I recognize that this decision lies solely within the President's discretion. I simply state my view based on the record presented to our court. I authorize you to show this letter to the President if you desire to do so.

Again, I am sorry your letter was not delivered to me at an earlier date.

Sincerely,


GERALD W. HEANEY

GWH:bn

FOR IMMEDIATE RELEASE

CONTACT: Sekita Ekrek
202/223-3660

ROBERT REDFORD JOINS SEN. DANIEL INOUE AND REP. DON EDWARDS IN
CALLING FOR REOPENING OF LEONARD PELTIER CASE

Claiming Peltier Did Not Receive a Fair Trial, Redford Cites
Dual Standard of Justice and Calls on FBI to Release Documents
Requested in Producers' Recent Freedom of Information Act Suit

Washington, DC, May 13 -- Robert Redford took his effort to see justice served in the case of American Indian Movement leader Leonard Peltier to Washington, DC, today and joined Sen. Daniel Inouye and Rep. Don Edwards in a press conference on Capitol Hill to call for reopening the case.

Sen. Inouye, chairman of the Senate Select Committee on Indian Affairs and Rep. Edwards, chairman of the House Judiciary Committee's Subcommittee on Civil and Constitutional Rights have led the fight on Capitol Hill for a reexamination of the case. Sen. Inouye has requested a meeting with President Bush to discuss, among other options of executive intervention, a Presidential pardon or commutation of Mr. Peltier's sentence.

Peltier is currently serving his 16th year of two consecutive life sentences for the killing of two FBI agents in a 1975 shoot-out on the Pine Ridge Reservation in South Dakota. Of the four men indicted, one was later released because of weak evidence and two others were acquitted in July 1976 when a jury concluded that although they had fired at the agents, they had done so in self defense. Indicted on the same charges, but not tried until the following year after a questionable extradition from Canada, Peltier was convicted.

Redford announced a recent and unusually important court decision on a suit filed under the Freedom of Information Act on behalf of the production by "Incident at Oglala" producer Arthur Chobanian and associate producer Chip Selby, requesting the release of 54-pages of transcripts they believe contain the answer to one of the most important questions in the case. "The FBI said this material is exempt because it came from confidential sources and the court said the FBI failed to prove that it came from confidential sources," said Redford. These documents may contain the critical answer to what kind of vehicle the FBI agents followed onto the reservation the day of the shoot-out. (see attached "Chobanian and Selby Statement").

(more)

Page Two

"Incident at Oglala," Redford's recently released documentary covers the events leading up to the 1975 shoot-out and chronicles the subsequent relentless prosecution and conviction of Peltier. "The film attempts to set the record straight and put the facts on the table and asks the viewer to be the judge." He added, "The film raises the question: 'Did this man receive a fair trial?' In my view, after exhaustive research complete with customary government stonewalling, the answer is no, he did not."

Further Redford added, "Above all else, the film is about the American justice system and illustrates how, at its heart, this system deals with minorities and specifically, Native Americans."

Citing the prosecution's withholding of evidence, use of false evidence to extradite Peltier and other unanswered questions in the case, the three called for re-opening the Peltier case. Sen. Inouye, believing the Justice Department has no incentive to do so, said the call would have to come from the White House. Rep. Edwards urged the President to re-examine the case and explore options of a commutation or pardon.

The Eighth Circuit Court of Appeals responded to Peltier's fifth appeal for a new trial two weeks ago. A response has been filed and oral arguments will take place in the future.

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CHOBANIAN AND SELBY STATEMENT ON FREEDOM OF INFORMATION ACT
RULING AND HOW IT PERTAINS TO THE PELTIER CASE

What vehicle did FBI Agents Coler and Williams follow onto the Jumping Bull Compound? And who was inside this vehicle? These are two key questions in the Peltier case. The prosecution's theory at trial was that Leonard Peltier, driving his red-and-white van, led the agents into the area and started the shootout. Substantial evidence, however, suggests that the agents followed a red pickup truck, whose occupants have never been identified.

According to "INCIDENT AT OGLALA" producer Arthur Chobanian, these questions could be answered by the FBI radio transmissions of June 26, 1975. Yet at Peltier's trial, the government claimed that neither recordings nor verbatim transcripts of the FBI radio channel existed. During the making of their film, Chobanian and Associate Producer Chip Selby uncovered evidence that strongly suggests otherwise.

While researching the subject, they discovered a Washington Post story dated July 10, 1975, just two weeks after the shootout. The story reported that South Dakota Attorney General William Janklow had acknowledged that radio transmissions of Coler and Williams were recorded by the State of South Dakota. Fifteen years later, William Janklow confirmed this fact in a filmed interview for "INCIDENT AT OGLALA". In addition, two U.S. Government officials intimately involved in the RESMURS investigation -- Robert Sikma (an Assistant U.S. Attorney who prosecuted the case) and Norman Zigrossi (the FBI Assistant Special Agent in charge of the investigation) -- also stated in filmed interviews that they believed the FBI radio channel had been recorded.

With this information in hand, Selby made a formal request under the Freedom of Information Act for any recordings or verbatim transcripts made of FBI radio transmissions pertaining to RESMURS. When the FBI did not respond to the request, Chobanian authorized legal action to be taken. On January 18, 1991, a lawsuit was filed in U.S. District Court in Los Angeles demanding immediate compliance with the FOIA request.

(more)

Over the next two months, the FBI released 93 pages of records pertaining to FBI radio transmissions recorded by the South Dakota State Radio Communications System. (None of the released pages were transcripts of the transmissions.) The FBI also revealed that they had destroyed four reels of undisclosed tape recordings on November 8, 1988, and that their Minneapolis Field Office was withholding a 54-page transcript given them by South Dakota authorities. The FBI claimed this document was exempt from release under the Freedom of Information Act because it contained information supplied by a confidential source.

Through attorneys James Lesar and Lawrence Teeter, the FBI's exemption of the 54-page transcript was fought. After almost 15 months of legal maneuvering, a verdict was finally handed down on April 9, 1992. In what Lesar calls an almost unprecedented decision in FOIA litigation, Judge Richard A. Gadbois ruled against the FBI, ordering them to release the transcript.

The FBI has already asked the District Court to reconsider its decision. And even if this motion is not heard, the government will almost certainly appeal to the 9th Circuit Court of Appeals, and possibly the Supreme Court. According to Lesar, it may be years before there is a final resolution to the case.

Why is the FBI fighting so desperately to withhold the transcript? Chobanian and Selby believe it will prove that FBI Agents Coler and Williams were not following Peltier's van, but a red pickup. This fact alone would substantiate charges of FBI perjury and prosecutorial misconduct at Peltier's trial, leading perhaps to a new trial in this controversial case.

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Chip Selby: 818-906-8579
Jim Lesar: 202-393-1917

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Subj.

Incident at Ogala (Kiranox Films) press kit, [1992]

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